

SWIDLER

BERLIN

CHARTERED

DOCKET FILE COPY ORIGINAL RECEIVED

FEB 12 1997

February 12, 1997

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

**VIA COURIER**

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, N.W., Room 222  
Washington, D.C. 20554


Re: Comments of Telco Communications Group, Inc. on Pacific Bell's and Nevada Bell's CEI Plan CC Docket No. 96-128

Dear Mr. Caton:

Enclosed for filing please find an original and four (4) copies of the Comments of Telco Communications Group, Inc. on Pacific Bell's and Nevada Bell's CEI Plan, CC Docket No. 96-128. Also enclosed is an extra copy to be stamped and returned.

Please direct any questions you may have regarding this filing to the undersigned of this office.

Respectfully submitted,



Dana Frix  
Pamela Arluk

Its Counsel

cc: Attached Service List  
Natalie Marine-Street

No. of Copies rec'd  
List ABCDE

044

172128.10

DOCKET FILE COPY ORIGINAL RECEIVED

FEB 12 1997

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

|  |   |                      |
|--|---|----------------------|
| In the Matter of                           | ) |                      |
|  | ) |                      |
| Implementation of the Pay Telephone        | ) | CC Docket No. 96-128 |
| Reclassification and Compensation          | ) |                      |
| Provisions of the Telecommunications       | ) |                      |
| Act of 1996                                | ) |                      |
|  | ) |                      |
| Pacific Bell and Nevada Bell               | ) |                      |
| Comparably Efficient Interconnection       | ) |                      |
| Plan for the Provision of Payphone Service | ) |                      |

**COMMENTS OF TELCO COMMUNICATIONS GROUP, INC. ON  
PACIFIC BELL'S AND NEVADA BELL'S CEI PLAN**

Pursuant to the Commission's January 13, 1997 Public Notice in the above-referenced proceeding, Telco Communications Group and its subsidiaries (including Long Distance Wholesale Club, Inc. and its Dial & Save subsidiaries, collectively "Telco") hereby submit these comments on Pacific Bell's and Nevada Bell's (together referred to as "Pacific Bell's") comparably efficient interconnection ("CEI") plan for payphone service providers, which was required by the Commission's Payphone Order.<sup>1/</sup>

Telco is an interexchange carrier that derives the bulk of its revenue through casual calling, and has been ordered by the Commission to compensate payphone service providers during the interim compensation period specified in the Payphone Order. Telco's comments illustrate that

---

<sup>1/</sup> Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, CC Docket No. 96-128, *Report and Order*, (rel. Sept 20, 1996) ("Payphone Order"), *Order on Reconsideration* (rel. Nov. 8, 1996) ("Reconsideration Order").

Pacific Bell's CEI plan should be rejected as unacceptably vague and that the Commission should prohibit Pacific Bell and other RBOCs from participating in the interim compensation scheme.

**I. Pacific Bell's CEI Plan Lacks the Detail and Specificity Required by the Commission's Payphone Order**

The Payphone Order outlines elements required to be included in the RBOCs CEI plans.<sup>2/</sup> The Commission required each RBOC to describe how it intends to comply with the CEI "equal access" parameters for the specific payphone service it intends to offer.<sup>3/</sup> In addition, the CEI plan must explain how it will unbundle basic payphone service.<sup>4/</sup> Pacific Bell's CEI plan is insufficient to satisfy these two elements because it lacks any specificity -- merely stating that it will comply with the requirements, rather than explaining how it will comply.

For example, in complying with the CEI equal access parameter, Pacific Bell must explain how it intends to provide interface functionality, unbundling of basic services, resale, technical characteristics, installation, maintenance and repair, end user access, CEI availability, minimization of transport costs, and availability to all interested customers or enhanced service providers.<sup>5/</sup> Egregiously, rather than explaining how it intends to provide interface functionality, Pacific Bell merely states that PSPs may connect their payphone CPE to Pacific Bell's

---

<sup>2/</sup> Payphone Order at ¶¶ 203-207.

<sup>3/</sup> Payphone Order at ¶ 203.

<sup>4/</sup> Payphone Order at ¶ 204.

<sup>5/</sup> Payphone Order at ¶ 203.

standardized technical interconnections.<sup>6/</sup> Pacific Bell provides no further explanation or meaningful detail regarding the technical requirements a PSP must meet to connect to the network interfaces, and provides absolutely no description of the interfaces. Similarly, with regard to resale, Pacific Bell simply states that the operations will take all basic services at unbundled tariffed rates.<sup>7/</sup> Pacific Bell, however, fails to provide any specificity as to what combinations will be offered for resale, whether resale will be offered on a nondiscriminatory basis, or what mechanisms will exist to enable competitors to ensure that resale obligations are being met.

Moreover, Pacific Bell does not sufficiently explain how it intends to ensure that technical characteristics are nondiscriminatory. Pacific Bell is required to offer unaffiliated PSPs basic services with technical characteristics that are equal to those of the basic services it utilizes for its own payphone service operations. Although Pacific Bell assures the Commission that the technical characteristics will be the same, it does not provide any details for the Commission to determine that there will be no discrimination between affiliated and unaffiliated PSPs.<sup>8/</sup>

The Commission must require Pacific Bell to amend its plan to provide significantly greater specificity on how it will comply with the Commission's requirements in its provision of payphone services. The Commission must not blindly accept vague representations that Pacific Bell will comply with all of the required elements. The history of discrimination in the payphone industry warrants a meaningful evaluation of the CEI plan to ensure that Pacific Bell will indeed provide payphone services in a nondiscriminatory manner.

---

<sup>6/</sup> Pacific Bell CEI Plan at 5.

<sup>7/</sup> Pacific Bell CEI Plan at 6.

<sup>8/</sup> Pacific Bell CEI Plan at 6-7.

## **II. The Commission Should Prohibit Pacific Bell and Other RBOCs from Participating in the Interim Compensation Scheme**

Apart from the numerous deficiencies in Pacific Bell's CEI plan, the Commission should refrain from allowing Pacific Bell or any RBOC to participate in the interim compensation scheme outlined in the Payphone Order. The Payphone Order provides that independent payphone owners are to receive \$45.85 per payphone per month and requires interexchange carriers with 1995 revenues in excess of \$100 Million to compensate payphone providers based on a percentage of their overall toll revenues.<sup>2/</sup> In its Reconsideration Order, the Commission implied that LECs might be eligible to receive this compensation upon elimination of subsidies and reclassification of payphone assets.<sup>10/</sup> In formulating this interim compensation scheme, however, the Commission failed to account for whether toll revenues have any relationship to a carrier's use of payphones. Thus, Telco (and possibly other interexchange carriers) is placed in a position of being required to compensate payphone providers during the interim period at a level much higher than (and unrelated to) its actual payphone use.

Telco derives the vast majority of its revenues through casual calling, which requires customers to dial one of Telco's five-digit carrier identification codes prior to placing direct dial long distance calls. To enable Telco to track and bill customers for direct dialed calls placed through these codes, when ordering originating access circuits from the LEC, Telco instructs the

---

<sup>2/</sup> Payphone Order at ¶ 125.

<sup>10/</sup> Reconsideration Order at ¶ 131.

LEC to prohibit direct dialed 1+ or 0+ calls from payphones. It is, therefore, impossible for most customers to reach Telco's network through any payphone for direct dialed calls. In addition, Telco does not heavily market other services that allow dial-around calls to be made from payphones, such as 800 services or calling card services. Consequently, Telco receives an extraordinarily small percentage of calls from payphones, compared to carriers like MCI and AT&T which market heavily to the dial-around market. For example, during the month of November 1996, Telco received approximately 16,777 calls from *all* payphones, including both LEC-owned payphones and independent payphones, out of a total of more than 29 million calls using Telco's network --amounting to 0.057% (5 one-hundredths of one percent) of all calls received.<sup>11/</sup>

The Payphone Order, however, requires Telco to pay payphone providers a flat rate of \$0.1467954 per payphone during this interim compensation period, regardless of whether Telco's use of payphone services warrant such compensation.<sup>12/</sup> To illustrate the inequity of the current situation, when Telco's flat rate of \$0.1467954 is multiplied by the approximately 350,000 independent payphones, Telco will be required to pay independent payphone providers approximately \$51,378.39 per month. However, when the number of *all* payphone calls (both LEC-owned and independent) Telco received in November is multiplied by \$0.35, Telco's obligation would be only approximately \$5,871.95. Accordingly, Telco is already paying over

---

<sup>11/</sup> This information was obtained by screening all November 1996 traffic on Information Digit "27," which is the industry standard to identify a call originating from a coin line.

<sup>12/</sup> See Payphone Order at Appendix F.

\$45,000 a month more than it should be paying considering its extremely limited use of payphone services.

Including the LEC-owned payphones in this compensation scheme would further exacerbate the already unfair burden being placed on Telco. If the Commission allowed LEC-owned payphones to be compensated \$45.85 per month at the current interim compensation rate, Telco would be required to pay approximately an additional \$220,193.10 per month to compensate the 1.5 million LEC-owned payphones. Telco would, therefore, be compensating payphone owners \$271,571.49 a month. Divided by the 16,777 calls Telco received in November 1996, this means that Telco would pay more than \$16.00 per call received from a pay telephone. As noted above, if Telco was only required to compensate payphone providers based on the number of calls it receives, instead of a percentage of its toll revenues, Telco would only pay approximately \$5,871.95 per month, instead of \$271,571.49 a month -- a difference of over \$1.5 million for the period between April 15, 1997 and November 1, 1997.

This would result in a patently irrational and unconscionable scheme in which Telco would be compensating payphone owners thousands of times over for the amount of services it is actually using. Such a scheme plainly would be contrary to the public interest and would violate the underlying intent of the Telecommunications Act of 1996 requiring "fair" compensation for payphone providers. Pursuant to the Payphone Order, in November 1997, the interim compensation method will be replaced by a per-call method<sup>13/</sup> in which carriers will pay payphone owners based on the number of calls they receive, rather than a portion of their toll revenues

---


<sup>13/</sup> Payphone Order at ¶ 99.

which, as illustrated by Telco, bear no reasonable relation to the number of payphone calls the carrier actually receives. Accordingly, the Commission should prohibit RBOCs such as Pacific Bell from participating in the flat rate compensation scheme that already imposes an unfair burden on carriers such as Telco to compensate for payphone calls that are simply not being made.

### CONCLUSION

The Commission should reject Pacific Bell's CEI plan as failing to provide sufficient specificity as to how it will comply with the elements required to provide payphone services in a nondiscriminatory manner. Pacific Bell must be required to refile its plan with greater detail and specificity. Moreover, the Commission should prohibit Pacific Bell and other RBOCs from participating in the interim compensation scheme specified by the Payphone Order as being contrary to the public interest and in violation of the underlying intent of the Telecommunications Act of 1996.

Respectfully submitted,



Dana Frix  
Pamela Arluk  
SWIDLER & BERLIN, CHARTERED  
3000 K Street, N.W., Suite 300  
Washington, D.C. 20007  
(202) 424-7500

Counsel for Telco Communications  
Group, Inc. and its subsidiaries

February 12, 1997

181342.1



**CERTIFICATE OF SERVICE**

I, Jeannine Allen, hereby certify that on this 12th day of February, 1997, copies of the foregoing **Comments of Telco Communications Group, Inc. on Pacific Bell's and Nevada Bell's CEI Plan, CC Docket No. 96-128**, were served on the following parties via first-class mail, postage prepaid, or via hand-delivery (indicated by asterisk).

\*Janice Myles  
Common Carrier Bureau  
Federal Communications Commission  
1919 M Street, N.W., Room 544  
Washington, D.C. 20554

\*International Transcription Service, Inc.  
1919 M Street, N.W., Room 246  
Washington, D.C. 20554

Lucille M. Mates / Jeffrey B. Thomas  
Attorneys for Pacific Bell and Nevada Bell  
140 New Montgomery Street, Room 1522A  
San Francisco, California 94105

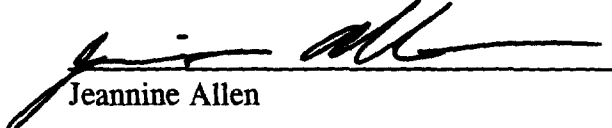
Albert H. Kramer / Robert F. Aldrich /  
David M. Janas  
Dickstein Shapiro Morin & Oshinsky LLP  
2101 L Street, N.W.  
Washington, D.C. 20037-1526

Polly Brophy  
Attorneys for Pacific Bell and Nevada Bell  
1010 Wilshire Boulevard, Room 1501  
Los Angeles, California 90017

Mark C. Rosenblum / Ava B. Kleinman /  
Seth S. Gross  
AT&T Corp.  
Room 3252J1  
295 North Maple Avenue  
Basking Ridge, New Jersey 07920

Nancy K. McMahon  
Attorney for Pacific Bell and Nevada Bell  
2600 Camino Ramon, Room 2W903  
San Ramon, California 94583

Margaret E. Garber  
Attorney for Pacific Bell and Nevada Bell  
1275 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004

  
\_\_\_\_\_  
Jeannine Allen